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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,597	06/26/2003	Brian R. Pollock	STL11000/9672-117	5022
73463                      7590                      07/09/2008 Myers Bigel Sibley & Sajovec, P.A. P.O. Box 37428 Raleigh, NC 27627				
EXAMINER				
TSAL SIENG JEN				
ART UNIT		PAPER NUMBER		
2186				
NOTIFICATION DATE		DELIVERY MODE		
07/09/2008		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

dpurks@myersbigel.com

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/606,597

**Applicant(s)**

POLLOCK ET AL.

**Examiner**

SHENG-JEN TSAI

**Art Unit**

2186

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 21 May 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see below.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/Matt Kim/  
Supervisory Patent Examiner, Art Unit 2186

/Sheng-Jen Tsai/  
PSA Examiner, Art Unit 2186

(1) In view of Applicants' remarks, rejection of claim 18 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement has been withdrawn.

(2) Applicants contend that, regarding claims 1 and 11, the Heath reference fails to teach the limitation of "adjusted seek length using respective lateral offset indicators derived from a longitudinal position measured of a source head at a source location." The Examiner disagrees.

First, Applicants admit that Heath teaches "adjusting the order of execution of commands." It should be noted that "the order of commands" are stored in a queue, and that each "command" corresponds to a "destination," thus Heath's invention is directed to selecting the next destination for the source head to move to from a queue of plurality of destinations.

Second, Applicants also admit that, in selecting a target destination, Heath teaches taking into consideration not only the "raw" seek length but also the fact that if the head cannot reach the destination track before the target sector rotates past the destination head, then this target destination will not be selected until an additional disk rotation is required [see second paragraph, Section 2 of Applicants' Remarks – For example, if the radial location of the target sector is so close to the destination head that the head cannot reach the destination track ...]. Thus, the selection of a target destination in Heath's invention is not only based on the "raw" seek length of the target location, but also based on an adjustment that takes into consideration if the head can reach the target destination within the same revolution cycle.

For example, Heath teaches that one more revolution is equivalent to 200 cylinders of seek length [In particular, during the time necessary for disc 10 to complete one revolution, beginning from point X1, read/write element 12 will be able to traverse 200 cylinders (col. 4, lines 3-5)]. Thus, when the equivalent number of cylinders corresponding to the longitudinal position is taken into consideration and adds to the original "raw" seek length, it results in the "effective," or adjusted, seek length that the Examiner relied on in teaching claims 1 and 11.

Third, it should be noted that claims 1 and 11 are completely silent regarding whether the adjusted seek length is the actual distance that the head travels to reach the target destination. Hence, the Examiner's interpretation of "seek time" to be equivalent to the "effective seek length" is well justified since there is a direct relationship between distance and time. For example, using the example that the Applicants provide, even though the "raw" seek length for a target destination is only 1 cylinder, the selection algorithm [as shown in figure 4B and 6A-6C] will add an equivalent of 200 cylinders to it because the head cannot reach it within the current revolution [e.g., step 72 of figure 4B], resulting in an effective seek length of 201 cylinders and the corresponding seek time.

Fourth, the Examiner is not disputing that the "raw" seek length is the same, as evident by the fact the actual distance traveled by the head to the destination remains the same. However, as far as the selection algorithm is concerned, it is the effective seek length for each candidate target destination based on which the selection of the next target destination is chosen, as reflected by the corresponding seek time, which is derived from the effective/adjusted seek length.

Since the claims do not require that the adjusted seek length to be the actual distance traveled by the head to the destination, it leaves room for interpretation that the effective/adjusted seek length may not be the same as the actual distance traveled by the head to reach the destination, as the Examiner explained above.

Therefore, the Examiner's position regarding the patentability of all claims remains the same as stated in the previous Office Action.